

## REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 30-34, 36-37, 39-42, 44-46, 48-52 and 58-59 are currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 30-34, 36-37, 39-42, 44-46, 48-52, 54, and 56-59 are now pending in this application.

## **SPECIFICATION**

On page 3 of the Office Action, the specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. The Office Action points to:

- a. The “A system for pricing an object” of claim 30; and
- b. The “a data processor configured ... to set a price for selling the object, and to adjust the price lower for selling the object ... based at least in part on the location data” of claim 30.

Regarding a., Claim 30 has been amended to recite “A system for pricing a product.” Antecedent basis is provided in the specification at least at para. [0023] which recites “a pricing system for providing dynamic pricing of products.” See also para. [0043].

Regarding b., the data processor configured to set a price for selling the product finds antecedent basis at least at risk assessment system 200, described in para. [0030] (“Risk assessment system 200 uses a predetermined risk data and data 140 to *arrive at a pricing decision* for object 112.”)(emphasis added). Para. [0023] provides support for “selling.” Risk

assessment system 200 may comprise a “computer” (para. [0023]) which is a data processor. Paras. [0004] and [0043] provide antecedent basis for adjusting the price lower for selling the object [para. 0004] . . . based at least in part on the location data [para. 0043].

Accordingly, reconsideration and withdrawal of this objection is respectfully requested.

### **CLAIM REJECTIONS – 35 U.S.C. § 101**

On page 4 of the Office Action, the Examiner rejected Claims 39, 41, 42 and 44 under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. This rejection is respectfully traversed.

The Office Action states: “To overcome this particular 35 U.S.C. § 101 rejection and assuming the original specification supports such an amendment in accordance with 35 U.S.C. § 112 1<sup>st</sup> paragraph, the Examiner recommends (by way of example only) that Applicant amend claim 39 to recite the limitations of either of claims 45 or 46.”

Claim 39 has been amended to incorporate the limitation: “wherein the pricing the product is performed by one of the handheld computer and a remote server.” Support is found at least at paragraph [0022] “Integrating wireless and mobile technologies into risk assessment systems and methods . . .”, paragraph [0023] “risk assessment systems . . . refer broadly to systems and processes (including automated, manual, human, computer, and other systems and processes) used in issuing, providing, selling, pricing, etc. risk protection products” and “the risk assessment systems shown and described may be applied to the invention as a pricing system for providing dynamic pricing of products based on data collected from a mobile electronic device.” Paragraph [0038] describes an embodiment in which risk assessment system 400 *includes* the data recording system; and, as described earlier in the specification, the data recording/collection system may be “attached or associated with a device, object, machine, etc. . . such as a . . . handheld computer.” (Para. [0033]). Further, the method of FIG. 4 for pricing a product is not limited to the user of a remote server. See para. [0043].

Accordingly, the specification provides full enablement and written description support for the added limitation of Claim 39, as well as claims 45 and 46. Reconsideration and withdrawal of this rejection is respectfully requested.

**CLAIM REJECTIONS – 35 U.S.C. § 112**

On page 6 of the Office Action, the Examiner rejected Claims 30-34, 36, 37, 39-42, 44-46, 48-52, 54 and 56-59 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. This rejection is respectfully traversed.

While Applicants do not acquiesce in the statement that “pricing the object as claimed is not necessarily disclosed” (Office Action, para. 29), the claims have been amended to replace “pricing an object” with “pricing a product.” Written description support for the elements shown in bold in the Office Action is provided above with regard to the “antecedent basis” objection.

The Office Action states: “The Examiner finds that Applicants’ original disclosure is directed to setting a price for insurance products.” While insurance products are one of the products supported in the original disclosure, other products are also supported. At para. [0043], the specification is clear that the product is “*not limited to information products and service products*” (emphasis added). At para. [0023], the specification is clear: “Further, the risk assessment systems shown and described may be applied to the invention as a pricing system for providing dynamic pricing of *products* based on data collected from a mobile electronic device.” The disclosure is not limited to insurance products.

On page 8 of the Office Action, the Examiner rejected Claims 30-34, 36, 37, 39-42, 44-46, 48-52, 54 and 56-59 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. This rejection is respectfully traversed.

The Office Action states “it is unclear whether the ‘for a person’ is referring to the ‘adjust the price lower’ or to the ‘selling the object.’” The Claims have been amended to replace “for”

with “to”, to clarify that the lower price is a price for selling the product to the person (or handheld computer) associated with the user ID. Reconsideration and withdrawal of this rejection is respectfully requested.

**CLAIM REJECTIONS – 35 U.S.C. § 103**

On page 9 of the Office Action, the Examiner rejected Claims 30-32, 36, 37, 39, 40, 45, 46, 48-50, 52, 54 and 56-59 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,901,261 to Banatre et al. (“Banatre”) in view of U.S. Patent No. 6,324,522 to Peterson et al. (“Peterson”). This rejection is respectfully traversed.

Claims 30, 39 and 48 have been amended to recite that the location circuit is configured to provide the location data using at least one of a signal from a global positioning system and radio frequency (RF) triangulation. Support is found in the present application at para. [0027].

Banatre is directed to an access interface which allows access to a context-sensitive service to a user portable set according to a chosen geographical coverage.

First, Banatre fails to teach or suggest using GPS or RF triangulation to determine position. Banatre relies on a perimeter identity Pid to determine the position of the user. This method relies on an ever-changing network topology (Banatre, 5:1-3), so that only relative position to a mobile station (namely, within range or out of range) is ever known. GPS and RF triangulation provide a more precise determination of actual location.

Second, Banatre teaches away from the use of GPS or RF triangulation by criticizing those techniques. Banatre criticizes GPS as being “difficult to implement, in particular internally, and are, moreover, limited to static geographical areas.” (Banatre, 1:19-24). Banatre criticizes triangulation as “imprecise.” (Banatre, 1:25-27). Thus, Banatre teaches away from the GPS and RF triangulation aspects.

Third, Claim 30 recites “a wireless transceiver configured to provide wireless communication of the location data.” Banatre does not teach providing wireless communication of location data determined from GPS or RF triangulation aspects.

Fourth, even assuming the combination of Banatre and Peterson was proper, the combination would still fail to teach or suggest “a data processor configured . . . to adjust the price lower for selling the product . . . based at least in part on the location data.” In Banatre, a vendor simply quotes different prices to different customers, with discounted price being displayed to a user based on the user’s user ID given at log-on. This does not teach a data processor configured to adjust a price lower based on location data.

Fifth, the combination of Banatre and Peterson is improper. Peterson discloses a system for quoting prices for maintenance repair and operating (MRO) parts and supplies. Peterson is silent regarding any sort of location-based pricing, much less location-based pricing involving the location of a handheld computing device. Peterson fails to recognize the problem addressed by the present claims and is not in the analogous art of Banatre.

Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

On page 12 of the Office Action, the Examiner rejected Claim 33, 41, 44 and 51 under 35 U.S.C. 103(a) as being unpatentable over Banatre in view of Peterson, and in further view of U.S. Patent No. 6,269,342 to Brick et al. (“Brick”). This rejection is respectfully traversed. Brick fails to provide for the deficiencies of Banatre and Peterson. These claims are allowable for at least the same reasons as their respective independent claims. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

On page 13 of the Office Action, the Examiner rejected Claims 34 and 42 under 35 U.S.C. 103(a) as being unpatentable over Banatre in view of Peterson and in further view of U.S. Patent No. 6,012,834 to Dueck et al. (“Dueck”). This rejection is respectfully traversed. Dueck fails to provide for the deficiencies of Banatre and Peterson. These claims are allowable for at

least the same reasons as their respective independent claims. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Applicants do not acquiesce in any of the definitions provided in the Office Action.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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